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EXAMINER

NGUYEN, HUNG D

ART UNIT	PAPER NUMBER
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3742

MAIL DATE	DELIVERY MODE
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06/23/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/580,307	Applicant(s) SARABIA TRILLA, MIGUEL	
	Examiner HUNG NGUYEN	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13, 15-17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13, 15-17 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/29/2010</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: line 9 recites “at the **centre** of the clamp” which appears to be a misspelling of the word “center”.

Appropriate correction is required.

2. Claim 10 is objected to because of the following informalities: line 3 recites “a pneumatic **shack** absorber effect” which appears to be a misspelling of the word “shock”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. In claim 6, there is insufficient antecedent basis for “the transverse shaft” recited in line 12-13 in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 8, 11 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Tunkers (DE 29713944) (hereinafter Tunkers'3944) (cited by applicant).

8. Regarding claim 1, Tunkers'3944 discloses a clamp for automated welding installations, for holding two or more sheets 30 (Fig. 1) to be handled during welding, said clamp comprising: a body 1 (Fig. 2 below), a fixed arm (Fig. 2 below) and a mobile arm 28 (Fig. 1 below) adapted to hold said two or more sheets, a pneumatic cylinder 2 (Fig. 2 below) for activating said mobile arm of the clamp, said body being in the form of a central tubular element (Fig. 2 below) surrounding said pneumatic cylinder 2 (Fig. 2 below) and having two opposing lateral plates (Fig. 3 below) welded to one end thereof, said mobile arm 28 (Fig. 2 below) being mounted for pivotal movement by said plates at the center of the clamp between said lateral plates (Fig. 3 below).

9. Regarding claim 2, Tunkers'3944 discloses wherein said central tubular element 1 (Fig. 2 below) is constituted from a lateral millings at said one end so as to support said opposing lateral plates (Fig. 3 below), said plates being joined to the tubular element by welding (Fig. 2 below). The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). In this case, the term "said central tubular element is constituted from a with lateral millings at said one end" is considered as product -by-

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process claim; therefore, no patentable weight is given to the term, and the patentable weight is only given to "said central tubular element so as to support said opposing lateral plates, said plates being joined to the tubular element".

10. Regarding claim 8, Tunkers'3944 discloses said pneumatic cylinder 2 (Fig. 2 below) has upper 43 (Fig. 2 below) and lower 7 (Fig. 2 below) fixed covers, a cylindrical casing (Fig. 2 below) joined to these upper and lower covers to seal the cylinder, said casing being slightly spaced from the internal side of said tubular element to provide a spacing providing a passage for air connecting the upper with the lower parts of the cylinder (Fig. 2), said pneumatic cylinder having a piston 3 (Fig. 2 below) and a piston rod 6 (Fig. 2 below) having an extension for activating said mobile arm 28 (Fig. 2 below).

11. Regarding claim 11, Tunkers'3944 further discloses an orifice 5 (Fig. 2 below) in said upper cover 43 (Fig. 2 below) admitting air into said spacing between the cylinder casing and the tubular element of the body 1 (Fig. 2 below).

12. Regarding claim 19, Tunkers'3944 further discloses a clamp for automated welding installations comprising a body 1 (Fig. 2 below) and at least two arms 28 (Fig. 2 below) adapted to be used to hold two or more sheets 30 (Fig. 1) to be handled during welding, at least one of said arms 28 (Fig. 2 below) being mobile and mounted for pivotal movement, and a pneumatic cylinder 2 (Fig. 2 below) for activating said at least one mobile arm 28 (Fig. 2 below), wherein said body has a central tubular element with two opposing lateral plates (Fig. 3 below) at the lower part thereof, and a fixed pivot shaft 29 (Fig. 2 below) supported by said plates to support said at least one mobile arm

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for said pivotal movement, said mobile arm being disposed at the center of the clamp between the lateral plates (Refer to Fig. 3 below), said central tubular element housing said pneumatic cylinder 2 (Fig. 2 below) having a piston 3 (Fig. 2 below), a piston rod 6 (Fig. 2 below), and an extension at its free end with an activation roller 15/23 (Fig. 3 below) engaging a said mobile arm and operable to effect pivotal movement of said mobile arm on said fixed pivot shaft 29 (Fig. 2 below).

13. Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by Horn et al. (US Pub. 2002/0084564) (newly cited).

14. Regarding claim 19, Horn et al. discloses a clamp for automated welding installations comprising a body and at least two arms 82 and 86 (Fig. 1) adapted to be used to hold two or more sheets to be handled during welding, at least one of said arms 82/86 (Fig. 1) being mobile and mounted for pivotal movement, and a pneumatic cylinder 70 (Fig. 1) for activating said at least one mobile arm 82/86 (Fig. 1), wherein said body has a central tubular element with two opposing lateral plates 22 and 26 (Fig. 1 and 2) at the lower part thereof, and a fixed pivot shaft 174 (Fig. 2) supported by said plates to support said at least one mobile arm for said pivotal movement, said mobile arm being disposed at the center of the clamp between the lateral plates (Refer Fig. 2), said central tubular element housing said pneumatic cylinder 70 (Fig. 1) having a piston 74 (Fig. 1), a piston rod, and an extension 78 (Fig. 1) at its free end with an activation roller 162 (Fig. 1 and 3) engaging a said mobile arm 82/86 (Fig. 1 and 3) and operable to effect pivotal movement of said mobile arm on said fixed pivot shaft.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tunkers (DE 29713944) in view of Tunkers (US Pat. 5,823,519) (hereinafter Tunker'3519) (previously cited).

17. Regarding claim 3, Tunkers'3944 discloses substantially all features of the claimed invention as set forth above **except** the opposing lateral plates of the body of the clamp being constituted by steel. Tunkers'3519 discloses the opposing lateral plates 7 (Fig. 3) and 8 (Fig. 4) of the body of the clamp are constituted by calibrated steel (Col. 6, Line 50). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize in Tunkers'3944, the opposing lateral plates of the body of the clamp being constituted by steel, as taught by Tunkers'3519, for the purpose of having strong and structural integrity.

18. Regarding claim 4, Tunkers'3519 discloses said opposing lateral plates 7 (Fig. 3) and 8 (Fig. 4) of the body of the clamp have openings 15/18 (Fig. 3) and 16/19 (Fig. 4) within their perimeters, said perimeters and openings being defined by laser-beam machining. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product

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of the prior art, the claim is unpatentable even though the prior product was made by a different process.” In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). In this case, the term “said opposing lateral plates of the body of the clamp have openings within their perimeters, said perimeters and openings being defined by laser-beam machining” ” is considered a product-by-process claim; therefore, no patentable weight is given to the term, and the patentable weight is only given to “said opposing lateral plates of the body of the clamp have openings within their perimeters”.

19. Regarding claim 5, Tunkers’3944 discloses a fixed transverse pivot shaft 29 (Fig. 2 below) mounted between said opposing lateral plates (Fig. 3 below), and an activation roller 15/23 (Fig. 2 below) operable to be displaced by said mobile arm 28 (Fig. 2 below) of the clamp on said shaft. Tunkers’3519 discloses said opposing lateral plates of the body of the clamp 7 (Fig. 3) and 8 (Fig. 4) have lightening openings, orifices for mounting the ends of the pivots shaft of the mobile arm of the clamp and elongate holes 18 (Fig. 3) and 19 (Fig. 4) for guiding said activation roller for displacing the mobile arm 6 (Fig. 1) of the clamp.

20. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tunkers (DE 29713944) in view of Sawada et al. (US Pub. 2001/0042951) (newly cited).

21. Regarding claim 6, Tunkers’3944 discloses wherein said body has a pneumatic cylinder 2 (Fig. 2 below) for activating the clamp, a piston rod 6 (Fig. 2 below) with a drive rod at its free end and an activation roller 15/23 (Fig. 2 below) on said drive rod for pivoting said mobile arm 28 (Fig. 2 below), and wherein said mobile arm of the clamp is

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mounted for pivoting on a fixed pivot shaft 29 (Fig. 2 below) between said plates, and takes an L-shaped position (Fig. 2 below); said mobile arm 28 (Fig. 2 below) being disposed between said opposing lateral plates (Fig. 3 below) **except** the mobile arm presents on its internal end an elongated hole that causes the arm to pivot on said pivot shaft, said mobile arm being disposed between said opposing lateral plates, said elongated hole adapted to receive said activation roller, said elongated hole of the arm having a straight inferior area and a gently curved upper area to cause the progressive variation of the angle of incidence between the transverse shaft pivoting the mobile arm and the elongated hole of said mobile arm, and whereby the straight area provides an irreversibility area on triggering. Sawada et al. discloses the mobile arm 23 (Fig. 2) presents on its internal end an elongated hole 25 (Fig. 2) that causes the arm to pivot on said pivot shaft 28 (Fig. 2), said elongated hole 25 (Fig. 2) adapted to receive said activation roller 24 (Fig. 2), said elongated hole of the arm having a straight inferior area 25a (Fig. 2) and a gently curved upper area 25b (Fig. 2) to cause the progressive variation of the angle of incidence between the transverse shaft 28 (Fig. 2) pivoting the mobile arm and the elongated hole 25 (Fig. 2) of said mobile arm, and whereby the straight area provides an irreversibility area on triggering. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize in Tunkers'3944, the mobile arm presents on its internal end an elongated hole that causes the arm to pivot on said pivot shaft, said elongated hole adapted to receive said activation roller, said elongated hole of the arm having a straight inferior area and a gently curved upper area to cause the progressive variation of the angle of incidence

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between the transverse shaft pivoting the mobile arm and the elongated hole of said mobile arm, and whereby the straight area provides an irreversibility area on triggering, as taught by Sawada et al., for the purpose of guiding the mobile arm by the elongate hole/opening.

22. Claims 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tunkers (DE 29713944) in view of Dellach (US Pat. 6,079,896) (previously cited).

23. Regarding claim 7, Tunkers'3944 discloses substantially all features of the claimed invention as set forth above **except** a fitted metal band covering the gap between said two lateral plates on its free lower and rear part, said metal band being provided with a longitudinal opening in which the mobile arm of the clamp passes, said mobile arm including a second metal band, shorter than said fitted metal band confronting the internal side of said fitted metal band adapted to at least partially close said longitudinal opening during pivotal movement of the mobile arm. Dellach discloses a fitted band 74 (Fig. 4) covering the gap between said two lateral plates 72 (Fig. 3) on its lower and rear part, said metal band being provided with longitudinal opening (See Fig. 3) in which the mobile arm of the clamp passes. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize in Tunkers'3944, a fitted metal band covering the gap between said two lateral plates on its free lower and rear part, said metal band being provided with a longitudinal opening in which the mobile arm of the clamp passes, said mobile arm including a second metal band, shorter than said fitted metal band confronting the internal side of said fitted metal band adapted to at least partially close said longitudinal opening during pivotal

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movement of the mobile arm, as taught by Dellach, for the purpose of protecting the clamp from foreign material may entering the clamp head.

24. Claims 9-10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tunkers (DE 29713944) in view of Tunkers (DE 10136057) (hereinafter Tunkers'6057) (newly cited).

25. Regarding claim 9, Tunkers'3944 discloses substantially all features of the claimed invention as set forth above **except** a bolt with a top head extending above said piston, said upper cover of the pneumatic cylinder having a central receptacle adapted to receive said top head of the bolt in the upper limit position of the piston. Tunkers'6057 discloses a bolt 19 (Fig. 1) with a top head extending above said piston 9 (Fig. 1), said upper cover 14 (Fig. 1) of the pneumatic cylinder 6 (Fig. 1) having a central receptacle 15 (Fig. 1) adapted to receive said top head of the bolt 19 (Fig. 1) in the upper limit position of the piston. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize in Tunkers'3944, a bolt with a top head extending above said piston, said upper cover of the pneumatic cylinder having a central receptacle adapted to receive said top head of the bolt in the upper limit position of the piston, as taught by Tunkers'6057, for the purpose of adjusting the angle of the angle of the clamping arm.

26. Regarding claim 10, Tunkers'6057 discloses the receptacle has an air outlet 8 (Fig. 3) with restrict and adjustable flow to provide a pneumatic shock absorber effect.

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27. Regarding claim 13, Tunkers'6057 discloses sensor housing 31 and 32 (Fig. 3) that detects the angular pivotal position of the mobile arm, and means mounting said housing on the rear side.

28. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tunkers (DE 29713944) in view of Kipping et al. (US Pat. 6,525,294) (newly cited).

29. Regarding claim 15, Tunkers'3944 discloses substantially all features of the claimed invention as set forth above **except** a bracket at the end of the body opposite to said one end, said bracket adapted to fasten the clamp to a grip or a welding tool including a cut-out on the bracket having a shoulder adapted to fit with a corner at the top edge of the tubular body of the clamp. Kipping et al. discloses a bracket 3 (Fig. 1) at the end of the body opposite to said one end, said bracket adapted to fasten the clamp to a welding tool 10 (Fig. 1) including a cut-out on the bracket having a shoulder adapted to fit with a corner at the top edge of the tubular body of the clamp. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize in Tunkers'3944, a bracket at the end of the body opposite to said one end, said bracket adapted to fasten the clamp to a grip or a welding tool including a cut-out on the bracket having a shoulder adapted to fit with a corner at the top edge of the tubular body of the clamp, as taught by Kipping et al., for the purpose of having a device for clamping and welding sheets of metal.

30. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tunkers (DE 29713944) in view of Takahashi (US Pat. 5,996,984) (previously cited).

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31. Regarding claim 16, Tunkers'3944 discloses substantially all features of the claimed invention as set forth above including lateral plates (Fig. 3 below) have openings **except** the covers for said openings, said covers being coextensive with the external sides of said plates. Takahashi discloses the covers 16(a, b) (Fig. 3) for said openings 12 a/b (Fig. 3), said covers being coextensive with the external sides of said plates¹⁴ (Fig. 3). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize in Tunkers'3944, the covers for said openings, said covers being coextensive with the external sides of said plates, as taught by Takahashi, for the purpose of protecting the clamp from dirt/dust or contamination may enter to the body.

32. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tunkers (DE 29713944) in view of Horn et al. (US Pub. 2002/0084564) (newly cited) and Dellach (US Pat. 6,079,896) (previously cited).

33. Regarding claim 17, Tunkers'3944 discloses substantially all features of the claimed invention as set forth above **except** a mounting unit for setting-up of said tubular body at the lower part of said body and, at the upper part of said body, said lateral plates having openings and defining a wide transverse recess open at the top in order to mount said mobile arm, said lateral plates having orifices for fastening screws, said transverse recess at the top having cover elements closing the upper part of the clamp itself in order to prevent welding splashes and other scraps from going in. Horn et al. discloses a mounting unit for setting-up of said tubular body 70 (Fig. 3) at the lower part of said body and, at the upper part of said body, said lateral plates 22 and 26

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(Fig. 2) having openings and defining a wide transverse recess open at the top (Fig. 6 shown the opening between the plate 22 and 26) in order to mount said mobile arm 82 and 86 (Fig. 3), said lateral plates having orifices for fastening screws 214 and 218 (Fig. 9). Dellach discloses said transverse recess at the top having cover elements 74 (Fig. 4) closing the upper part of the clamp itself in order to prevent welding splashes and other scraps from going in. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize in Tunkers'3944, a mounting unit for setting-up of said tubular body at the lower part of said body and, at the upper part of said body, said lateral plates having openings and defining a wide transverse recess open at the top in order to mount said mobile arm, said lateral plates having orifices for fastening screws, as taught by Horn et al., for the purpose of having a clamping device with two mobile arms; said transverse recess at the top having cover elements 74 (Fig. 4) closing the upper part of the clamp itself in order to prevent welding splashes and other scraps from going in, as taught by Dellach, for the purpose of protecting the elongate slot and cam from contamination or foreign matter.

Fig. 2

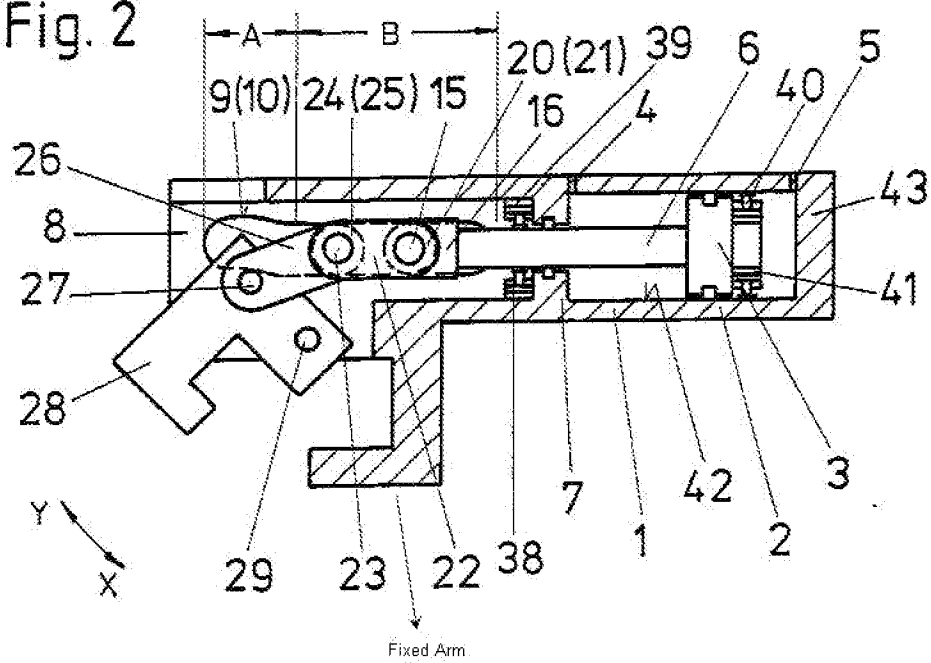
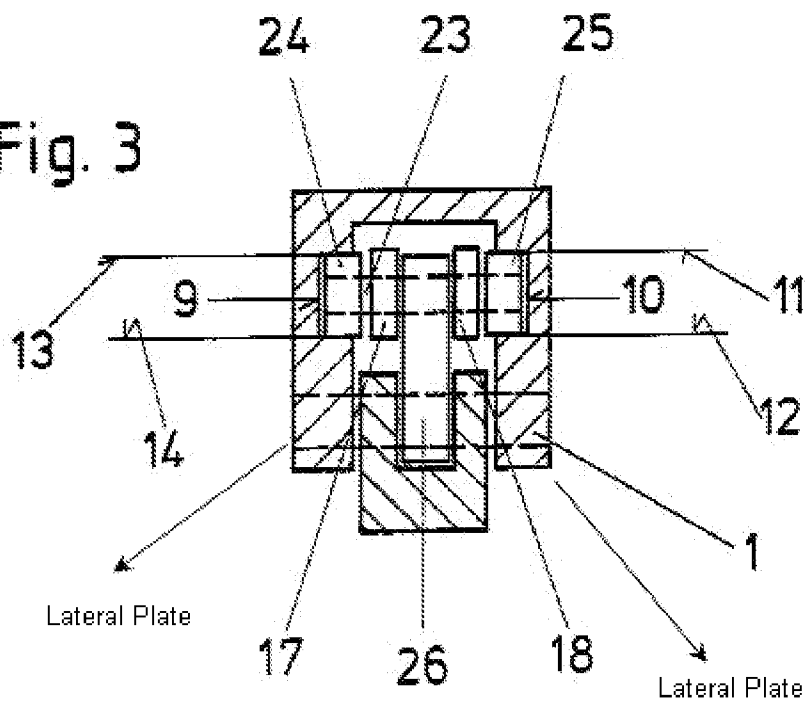


Fig. 3



34. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

35. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG NGUYEN whose telephone number is (571)270-7828. The examiner can normally be reached on Monday-Friday, 9M-6PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on (571)272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HUNG NGUYEN/
Examiner, Art Unit 3742
6/15/2010
/TU B HOANG/

Supervisory Patent Examiner, Art Unit 3742